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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,839	08/26/2003	Jerry R. Greer	N9685	3847
23456	7590	02/10/2005		
WADDEY & PATTERSON			EXAMINER	
414 UNION STREET, SUITE 2020			KENNY, STEPHEN	
BANK OF AMERICA PLAZA				
NASHVILLE, TN 37219			ART UNIT	PAPER NUMBER
			3726	

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/648,839	GREER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stephen J Kenny	3726	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 November 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-18 and 20-35 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) 4,5,10-18 and 20-29 is/are allowed.  
 6) Claim(s) 1-3,6-9 and 30-33 is/are rejected.  
 7) Claim(s) 34 and 35 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6, 9, 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Marshall (US Patent No 4893393).

Marshall discloses an apparatus & method for assembling tubes/hoses comprising: a frame (71); first (20) and second (30) gripper assemblies which are movable relative to each other from an open position to a closed position (see Figures 3-4) for gripping one of said hoses/tubes; and an actuator (80, 70) connected to the frame and first gripper assembly (20) for moving the first and second gripper assemblies toward each other to insert the tube/hose; wherein the jaws include a pair of partially cylindrical elongated support surfaces (22) for gripping the hose/tube.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 6, 9, 30-31, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen (US Patent No 3299496) in view of Marshall.

Regarding claims 1, 6, 9, 30-31, 33, Christensen discloses an apparatus for assembling hoses comprising a moveable frame (20, 36); a first gripper assembly (30) and a second gripper assembly (16) connected to the frame including gripper jaws to grip a hose; an actuator (46, 36) assembly connected to the first gripper assembly (30) for moving the first gripper toward the second gripper to insert a tubes/hoses (Figures 1 & 2, column 1, line 55+). In further regards to claims 30-31 & 33 the method as claimed is inherently performed during normal operation of the apparatus disclosed by Christensen (see MPEP 2112.02).

Regarding claims 2, Christensen discloses the first gripper (30) is moveable relative to the frame (20), and the second gripper (16) is fixed relative to the frame (Figures 1 & 2).

Regarding claims 3, Christensen discloses the frame includes a slide guide (28); the first gripper (30) is slidably mounted on the guide (28); and the actuator (46) includes a ram connected to the first gripper for sliding the first gripper on the slide guide (column 1, line 60-73).

Christensen does not disclose gripper jaws that are movable relative to each other from an open to closed position.

Marshall disclosed first & second gripper jaws (20, 30) that are movable relative to each other from an open to a closed position (Figures 3-4). The use of gripper jaws that are movable from an open to closed position is advantageous in that it allows the gripper assembly to accommodate tubes/hoses of varying diameters. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the tube/hose assembly device disclosed by Christensen, with jaws that can open and close, as taught by Marshall, in order to realize the advantages discussed above.

Claims 7-8, & 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen/Marshall as modified above, and further in view of Menguc (US Patent No 6311378).

Christensen/Marshall disclose the claimed invention except for the use of a counterbalance & suspending the frame from said counterbalance.

Menguc discloses an assembly device comprising a counterbalance (112) for suspending a work-tool (100, 40) therefrom so that a human operator can move the frame/tool about without supporting the weight of the frame (100). The horizontal orientation of the assembly tool is merely design choice, as it would be readily apparent to an artisan of ordinary skill to orient the tool in various ways to accommodate a given hose configuration. The use of such an overhead

counterbalance configuration is advantageous in that it reduces fatigue amongst the tool operators (column 3, lines 46-52). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to form a hose assembly as disclosed by Christensen/Marshall while employing a counterbalance as taught by Menguc in order to relieve the fatigue of tool operators.

***Allowable Subject Matter***

Claims 4-5, 10-18, 20-29 are allowed.

Claims 34-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 1-9 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments with respect to claims 30-35 have been fully considered but they are not persuasive. Applicant has put forth the argument that the jaws of the Christensen reference do not grip the hose/tube. The examiner points out that this gripping is an inherent feature of the jaws. In other words, if the jaws did not grip the hose/tube, when the jaws are actuated they would merely slide along the length of the hose/tube, and not urge the two members together. Thus, a gripping action is necessarily present to perform the method disclosed by Christensen. Applicant further argues that the jaws of the Christensen reference are not

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“powered”. The examiner points out that there is no limitation in the claim as to how this “power” is supplied (e.g. pneumatic, automatic, hydraulic, etc.). Therefore, the manual movement of the jaws is induced by manual labor of pressing member 36 downward which in turn forces or “powers” the clamps 16, & 32 towards each other, thereby meeting the limitations of the claims.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J Kenny whose telephone number is 571-272-4531. The examiner can normally be reached on mon - fri 9am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on 571-272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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DAVID P. BRYANT  
PRIMARY EXAMINER